

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MANUEL RODRIGUEZ.

Plaintiff,

09 Civ. 3642 (JSR)

-V-

ORDER

THE CITY OF NEW YORK; COMMISSIONER OF POLICE RAYMOND KELLY, INDIVIDUALLY AND AS THE POLICE COMMISSIONER OF THE CITY OF NEW YORK; POLICE OFFICER CHRISTOPHER GRENIER, BADGE NO. 30355, INDIVIDUALLY AND AS A POLICE OFFICER; POLICE OFFICER JOSE TORIBIO, BADGE NO. 10268, INDIVIDUALLY AND AS A POLICE OFFICER; POLICE OFFICER ROBERT GREENLEAF, BADGE NO. 30701 (NOW DETECTIVE UNDER BADGE 808), INDIVIDUALLY AND AS A POLICE OFFICER; AND POLICE OFFICERS "JOHN DOE" 1 THROUGH 4, INDIVIDUALLY AND AS POLICE OFFICERS; NEW YORK COUNTRY DISTRICT ATTORNEY ROBERT M. MORGENTHAU, INDIVIDUALLY AND AS THE DISTRICT ATTORNEY OF NEW YORK COUNTY; AND ASSISTANT DISTRICT ATTORNEY SHIRLEY IRICK, INDIVIDUALLY AND AS AN ASSISTANT DISTRICT ATTORNEY, AND ASSISTANT DISTRICT ATTORNEY "JOHN DOE", INDIVIDUALLY AND AS AN ASSISTANT DISTRICT ATTORNEY.

Defendants.

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JED S. RAKOFF, U.S.D.J.

Plaintiff brought this action in April 2009, asserting claims for relief under federal and state law for violations of constitutional rights, conspiracy, false arrest, malicious prosecution, and failure to train and supervise. Two groups of defendants filed separate motions: The City of New York, Police Commissioner Kelly, Police Officer Christopher Grenier, Police

Officer Jose Toribio, Police Officer Robert Greenleaf, and Police Officers "John Doe" 1 through 4 (collectively, the "City Defendants") brought a motion to abstain or stay and a motion to dismiss, and District Attorney Robert M. Morgenthau, Assistant District Attorney Shirley Irick, and Assistant District Attorney "John Doe" (collectively, the "DA Defendants") brought a motion to dismiss.

For the reasons stated from the bench, see transcript, August 11, 2009, the City Defendants' motion to abstain or stay is denied, but the City Defendants' motion to dismiss is granted: specifically, Count 4 against the City Defendants is dismissed with prejudice. Moreover, on consent, Counts 2 and 5 against Police Officer Jose Toribio and Police Officer Robert Greenleaf are dismissed with prejudice.

The DA Defendants' motion to dismiss is granted in part: specifically, Counts 1, 4, and 6 against the DA Defendants are dismissed with prejudice, and Count 2 to the extent it concerns malicious prosecution by the DA Defendants is dismissed with prejudice. With respect to the rest of the DA Defendants' motion, concerning Count 2, to the extent it alleges false arrest, and Counts 3, 5, and 7 in their entirety as to the DA Defendants, the Court reserves judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
August 17, 2009